

REMARKS

A total of 18 claims remain in the present application. The foregoing amendments are presented in response to the Office Action mailed August 23, 2005, wherefore reconsideration of this application is requested.

By way of the above-noted amendments, claims 9 and 23 have been cancelled in favour of new claims 32-35, which define subject matter believed to be patentable. Claims 7, 8 10, 11 and 26 have been amended to reflect the cancellation of claims 9 and 23, and introduction of claims 32-35. Paragraph 12 of the specification has been amended to correct a typographical error identified therein.

In preparing the above-noted amendments, careful attention was paid to ensure that no new subject matter has been introduced.

Referring now to the text of the Office Action:

- claims 1, 6-9, 11-16, 22 and 25 stand rejected under 35 U.S.C. § 102(e), as being unpatentable over the teaching of United States Patent No. 6,414,772 (Miyazaki);
- claims 1-4, 16-19, 24 and 25 stand rejected under 35 U.S.C. § 102(e), as being unpatentable over the teaching of United States Patent No. 6,619,867 (Asahi);
- claims 5, 20 and 21 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 6,619,867 (Asahi);
- claim 23 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over the teaching of United States Patent No. 6,619,867 (Asahi) in view of United States Patent No. 6,414,772 (Miyazaki); and
- claim 10 are objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As an initial matter, Applicant does not understand the present Office Action, and the claim rejections identified therein. In particular, paragraphs 1-7 of the Detailed Action

appear to be duplicates of corresponding paragraphs of the previous Office Action Mailed February 25, 2005, and do not take into account any of the claim amendments submitted by the Applicant on May 25, 2005. More particularly:

- Paragraph 2 of the Detailed Action sets out rejections of claims 1, 6-9, 11-16, 22 and 25 under 35 U.S.C. § 102(e). However, within this group, claims 1, 6, 16, 22 and 25 have already been cancelled. Claims 7, 9, and 11 were also amended in Applicant's response filed May 25, 2005.
- paragraphs 3-5 of the Detailed Action, in which the Examiner has rejected claims 1-5, 16-21, 24 and 25 appear to be entirely moot, because all of the referenced claims have already been cancelled.
- No examination appears to have been conducted with respect to new claims 26-31 filed May 25, 2005

Clarification is therefore courteously requested.

With reference to the amended claims now presented, it is believed that none of the cited references teach or suggest the combination of features of the claimed invention. In particular, independent claims 32 and 34 define that each data signal is scrambled "using a respective unique scrambling pattern, each scrambling pattern being substantially de-correlated from the other scrambling patterns at any given offset".

United States Patent No. 6,414,772 (Miyazaki) teaches that data signals are scrambled, but does not teach or suggest that the scrambling patterns used in each channel are unique. Nor does Miyazaki teach or suggest that the scrambling patterns used in each channel are de-correlated from one another. As such, Miyazaki fails to teach or suggest all of the features of the presently claimed invention.

United States Patent No. 6,619,867 (Asahi) teaches a method of reducing non-linear optical effects in a WDM system by shifting the phase of each channel relative to the other channels in the WDM optical signal. Asahi does not teach or suggest scrambling data signals in each channel, much less using a unique scrambling pattern for each data signal, and even less using scrambling patterns that are de-correlated from each other. As such, Asahi clearly fails to teach or suggest all of the features of the presently claimed invention.

In light of the foregoing, it is respectfully submitted that the presently claimed invention is clearly distinguishable over the teaching of the cited references, taken alone or in any combination. Thus it is believed that the present application is in condition for allowance, and early action in that respect is courteously solicited.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 19-5113.

Respectfully submitted,



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